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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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Allan N. Weiss

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EXAMINER

THEIN, MARIA TERESA T

ART UNIT

PAPER NUMBER

3627

DATE MAILED: 06/02/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/919,110

Applicant(s)

WEISS, ALLAN N.

Examiner

Marissa Thein

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 March 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 48-73 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 48-73 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

The "Amendment" filed on March 14, 2006 has been considered.

Applicant's remark by virtue of amendment to claim 53 has overcome the Examiner's Claim Objection.

Applicants are respectfully requested to cancel claims 1-47 in response to the Office Action.

Claims 48-49, 52-54, 57-60, 63-65, 68-71 are amended. New claims 72-73 are added. Claims 48-73 remain pending in this application and an action on the merits follows.

Claim Objections

Claim 73 is objected to because of the following informalities:

"The computer program product of claim 70" should be -- The computer program product of claim 71--. Appropriate correction is required.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 48, 50, 52-53, 59, 61, 63-64, 70 and 72 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,049,781 to Forrest et al. in view of U.S. Patent No 5,414,621 to Hough.

Regarding claims 48, 52, 59, 63 and 70, Forrest discloses a method of evaluating brokers or agents using a set of real estate database, the real estate databases comprising information and data relating to real estate listings and sales, the method comprising the steps of: defining a set of search criteria (col. 15, lines 51-58; col. 18, lines 27-37); accessing the set of real estate databases and obtaining therefrom as a function of the search criteria, a set of listing information for a set of properties (col. 15, line 66 – col. 16, line 13; col. 17, line 62- col. 18, line 5; col.19, lines 30-53, Figure 17); rating one or more of the listing brokers or agents based on at least one of sale price or list price (col. 19, lines 40-53, Figure 17). Forrest further discloses calculating a percent or ratio of sale price (col. 17, lines 65 – col. 18, line 5; col. 19, lines 40-53, Figure 17) **(claims 52 and 63).**

Forrest does not explicitly disclose means for performing for each property a retrospective market analysis that provides a retrospective market value of the property on the list date. Forrest discloses a system which comprises an appraisal information selection point and broker market analysis selection point so that a relocation coordinator may view and update appraisal information from appraisal table and broker market analysis information from broker table (col. 17, lines 61-64). The Relocation tracking program processes appraisal information and broker market analysis information to generate a spread which by be viewed by relocation coordinator (col. 17, line 65 – col. 18, line 1). The spread includes an average appraisal amount and average percentage spread between the appraisal amounts (col. 18, lines 1-3). The spread also includes a display of the broker market analysis information (col. 18, lines

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3-5). The relocation tracking program provides additional processing by generating various values based on the information provided from the tables of home selling table (col. 18, lines 10-14). The home selling table 50 that includes real estate broker/agent listing information, market analysis information, appraiser information and spread summary analysis information (col. 10, lines 3-9). Hough, on the other hand, teaches means for performing for each property a retrospective market analysis that provides a retrospective market value of the property on the list date (col. 2, lines 28-39; col. 4, lines 31-col. 5, line 20; col. 7, lines 13-27).

It would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the method, system, and computer program product of Forrest, to include means for performing for each property a retrospective market analysis that provides a retrospective market value of the property on the list date, as taught by Hough, in order to provide an accurate value of real estate (Hough, col. 1, lines 25-26).

Regarding claims 50, 53, 61, 64, and 72, Forrest discloses specification-defining properties of interest (col. 15, lines 55-58); and determining the rating as a further function of a time on market (col. 19, lines 40-46, Figure 17).

Claims 49, 51, 60, and 62 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,049,781 to Forrest et al. in and U.S. Patent No. 5,414,621 to Hough, as applied to claims 48 and 59 view of the article "HomeRoute Launches Agent Track; Only Web Site to Rank Real Estate Agents" (HomeRoute).

Regarding claims 49, 51, 60, and 62, Forrest and Hough substantially discloses the claimed invention, however, the combination does not explicitly disclose ranking the one or more listing agents or brokers as a function of the rating of each of the listing agents or brokers and a list of candidate listing of brokers or agents. The combination discloses rating brokers based on information such as sales price of homes handles by a broker and a broker's estimated sales price (Forrest, col. 19, lines 47-51). Furthermore, the combination discloses listing information of real estate broker/agent (Forrest col. 16, lines 2-7).

On the other hand, the article HomeRoute, teaches the ranking of the listing agents or brokers and a list of candidate listing of brokers or agents (whole article).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the combination, to include the ranking of listing brokers or agents and the listing of candidates, as taught by the article, in order to maximize effectiveness and service for the consumer (the article HomeRoute, paragraphs 5-7) and making informed choices about real estate professionals (the article HomeRoute, paragraph 11).

Claims 54-58, 65-69, 71 and 73 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,049,781 to Forrest et al. in view of U.S. Patent No. 5,414,621 to Hough and further view of the article "HomeRoute Launches Agent Track; Only Web Site to Rank Real Estate Agents" (HomeRoute).

Regarding claims 54, 56, 57, 58, 65, 67-69, 71, and 73, Forrest discloses a method of evaluating brokers or agents using a set of real estate database, the real

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estate databases comprising information and data relating to real estate listings and sales, the method comprising the steps of: defining a set of search criteria (col. 15, lines 51-58; col. 18, lines 27-37); accessing the set of real estate databases and obtaining therefrom as a function of the search criteria, a set of listing information for a set of properties (col. 15, line 66 – col. 16, line 13; col. 17, line 62- col. 18, line 5; col.19, lines 30-53, Figure 17). Forrest further discloses calculating a percent or ratio of sale price (**claims 57, 68**) (col. 17, lines 65 – col. 18, line 5; col. 19, lines 40-53, Figure 17) and a further function of time on market (col. 19, lines 40-46; Figure 17) (**claims 58, 69, 73**).

Forrest does not explicitly disclose means for performing for each property a retrospective market analysis that provides a retrospective market value of the property on the list date. Forrest discloses a system which comprises an appraisal information selection point and broker market analysis selection point so that a relocation coordinator may view and update appraisal information from appraisal table and broker market analysis information from broker table (col. 17, lines 61-64). The Relocation tracking program processes appraisal information and broker market analysis information to generate a spread which by be viewed by relocation coordinator (col. 17, line 65 – col. 18, line 1). The spread includes an average appraisal amount and average percentage spread between the appraisal amounts (col. 18, lines 1-3). The spread also includes a display of the broker market analysis information (col. 18, lines 3-5). The relocation tracking program provides additional processing by generating various values based on the information provided from the tables of home selling table (col. 18, lines 10-14). The home selling table 50 that includes real estate broker/agent

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listing information, market analysis information, appraiser information and spread summary analysis information (col. 10, lines 3-9).

Hough, on the other hand, teaches means for performing for each property a retrospective market analysis that provides a retrospective market value of the property on the list date (col. 2, lines 28-39; col. 4, lines 31-col. 5, line 20; col. 7, lines 13-27).

It would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the method, system, and computer program product of Forrest, to include means for performing for each property a retrospective market analysis that provides a retrospective market value of the property on the list date, as taught by Hough, in order to provide an accurate value of real estate (Hough, col. 1, lines 25-26).

Furthermore, the Forrest and Hough do not explicitly disclose ranking the one or more listing agents or brokers as a function of the rating of each of the listing agents or brokers and a list of candidate listing of brokers or agents. The combination discloses rating brokers based on information such as sales price of homes handles by a broker and a broker's estimated sales price (Forrest, col. 19, lines 47-51). Furthermore, the combination discloses listing information of real estate broker/agent (Forrest col. 16, lines 2-7).

On the other hand, the article HomeRoute, teaches the ranking of the listing agents or brokers and a list of candidate listing of brokers or agents (whole article).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the combination, to include the ranking of

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listing brokers or agents and the listing of candidates, as taught by the article, in order to maximize effectiveness and service for the consumer (the article HomeRoute, paragraphs 5-7) and making informed choices about real estate professionals (the article HomeRoute, paragraph 11).

Regarding claims 55 and 66, Forrest discloses specification defining properties of interest (col. 15, lines 55-58).

Response to Arguments

Applicant's arguments with respect to claims 48-73 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marissa Thein whose telephone number is 571-272-6764. The examiner can normally be reached on M-F 8:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Alex Kalinowski can be reached on 571-272-6771. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Mtot
May 25, 2006



STEPHEN B. MCALLISTER
PRIMARY EXAMINER